

REMARKS

This paper responds to the office action dated June 20, 2008. A diligent effort has been made to respond to the objections and rejections set forth therein, and reconsideration is respectfully requested.

Claims 1, 4-6, 8, 9, 16 and 48-55 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Vasudevan (US 2004/0192282) in view of Mathur (US 5,008,814). This rejection is traversed. In particular, applicants maintain that the combination of Vasudevan and Mathur does not teach all of the limitations of claims 1, 4-6, 8, 9, 16 and 48-55, and thus a *prima facie* case of obviousness has not been established in the latest office action.

In order to advance this application to issuance, however, applicants have now amended the independent claims 1, 48 and 53 to include the subject matter, respectively, of claims 9, 52 and 55. Because the subject matter of these claims (9, 52 and 55) is so clearly missing from the combination of Vasudevan and Mathur, applicants respectfully maintain that the obviousness rejection has now been overcome and request that the PTO issue a notice of allowance with respect to this application. Claims 8, 9, 51, 52, 54 and 55 are cancelled, herewith.

Turning then to the office action rejection of claims 9, 52 and 55, the subject matter of which has now been incorporated into claims 1, 48 and 53, the office action maintains that the elements and limitations of these claims is found in Mathur. (Office Action at 10) With respect to claim 9, the office action points to col. 6, lines 3-23 and Fig. 2 of Mathur as allegedly disclosing the step of “*storing an update resource in the mobile device memory, the update resource specifying the baseline mobile device configuration and updated mobile device configuration.*” There is nothing in this portion of Mathur, however, that relates to such an update resource. Rather, this portion of Mathur is discussing a process for marking certain

memory locations as “dirty” if a software loading process is not aborted, and further discusses header and batch packet data that identifies a location of a certain non-volatile memory where data is loaded.

More specifically, however, the office action makes no attempt to show where the following steps of claim 9 are found in Mathur: “*determining whether an update resource is stored in the mobile device memory during an initialization of the mobile device,*” and “*upon determining that the update resource is stored in the mobile device memory during an initialization of the mobile device, prompting a mobile device user to select one of the baseline mobile device configuration or updated mobile device configuration.*” These two steps, along with the first and last steps of claim 9, describe a process whereby the update resource is detected during an initialization of the mobile device, and then the user of the mobile device is prompted to select either the baseline mobile device configuration or the updated mobile device configuration. This aspect of the invention is advantageous, for example, if the updated configuration fails to perform up to expectations, in which case the mobile device user is given the ability to manually override the configuration update. No such manual override functionality is disclosed in the cited references. On Page 10 of the office action, where this claim language is recited, there is no corresponding citation to any prior art reference, in particular Mathur, that relates to these claimed steps/functions. The office action does cite to col. 7, lines 31-6 and col. 9, lines 20-30 of Mathur for the final step of claim 9, which recites “accepting the updated mobile device configuration or reverting to the baseline mobile device configuration based on the user selection,” but these portions of Mathur have nothing to do with a “user selection,” as required in claim 9. Rather, these portions of Mathur are describing an automated process of installing either an updated or an old system software, as shown and described in connection

with FIG. 2 of Mathur. There is no manual, user selection disclosed in these portions of Mathur, and therefore the reference fails to disclose this final step of claim 9, as well as the remaining steps/functions recited in this claim.

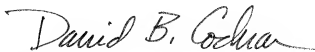
In summary, the office action has failed to address or demonstrate where several of the steps/functions of claims 9, 52 and 55 are shown in the cited art, and therefore on this basis alone the obviousness rejection must be withdrawn. Moreover, the portions of the Mathur reference relied upon in the office action simply fail to disclose the recited steps/functions of claims 9, 52 and 55, and thus for this additional reason the obviousness rejection must be withdrawn.

In view of the clear distinction between claims 9, 52 and 55 and the cited art, applicants maintain that the obviousness rejection of these claims (which have now been incorporated into independent claims 1, 48 and 53) has been overcome and thus the application is now in condition for allowance.

It is noted that applicants have not presented arguments with respect to one or more of the dependent claims pending in the instant application. This is done without prejudice to applicants' right to present arguments with respect to each of the pending claims at any point in the future. Further, because each of the dependent claims in the instant application depends from an independent claim that is patentable, the dependent claims are themselves patentable for at least the reasons set forth with respect to the independent claims.

Respectfully submitted,

JONES DAY

A handwritten signature in cursive script that reads "David B. Cochran". The signature is written in dark ink and is positioned above a horizontal line.

David B. Cochran
(Reg. No. 39,142)

Jones Day
North Point, 901 Lakeside Avenue
Cleveland, Ohio 44114
(216) 586-7506